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SENATE BILL 1079

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PHIL A. GRIEGO

AN ACT

RELATING TO LICENSING; ENACTING A NEW SECTION OF CHAPTER 61,
ARTICLE 29 NMSA 1978 TO PROVIDE FOR THE DUTIES OF A PERSON
LICENSED AS A REAL ESTATE SALESPERSON OR BROKER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 61, Article 29 NMSA
1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS--DUTIES OF LICENSEES.--

A. As used in this section:

- (1) "buyer" includes tenant or lessee;
- (2) "client" means a consumer with whom a licensee has an agency relationship;
- (3) "confidential information":
 - (a) means information gained from or about a client that: 1) is not a matter of public record; 2)

1 the client has not disclosed or authorized to be disclosed to
2 third parties; 3) if disclosed, would be detrimental to the
3 client; and 4) the client would not be obligated to disclose to
4 another party to the transaction;

5 (b) does not include information that is
6 required to be disclosed by law or information that the failure
7 to disclose would constitute fraudulent misrepresentation;

8 (4) "consumer", "customer" or "client" includes
9 prospective sellers, buyers, lessors, lessees, landlords and
10 tenants;

11 (5) "customer" means a person with whom a
12 licensee does not have an agency relationship;

13 (6) "licensee" means a person licensed as a
14 real estate salesperson or broker; and

15 (7) "seller" includes landlord or lessor.

16 B. A licensee's duties to a consumer are to:

17 (1) disclose any adverse material facts that
18 are known or that should be known by the licensee about the
19 propriety or the transaction within the scope of real estate
20 licensure;

21 (2) disclose any adverse material facts known
22 by the licensee pertaining to the parties' financial ability to
23 perform the transaction;

24 (3) disclose any material interest or
25 relationship of the licensee of a business or family nature

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1 relating to the transaction;

2 (4) present all offers in a timely manner unless
3 this duty is waived in writing by the consumer;

4 (5) perform any oral or written agreements
5 between the licensee and the parties;

6 (6) account promptly for money or property
7 received on behalf of others related to a real estate
8 transaction in which the licensee is involved;

9 (7) assist all parties without regard to race,
10 color, religion, sex, handicap, familial status, national origin
11 or ancestry;

12 (8) assist the parties in the transaction,
13 including making suggestions to obtain expert advice concerning
14 matters beyond the licensee's expertise; and

15 (9) maintain the confidentiality of
16 confidential information learned in the course of any prior
17 agency relationship unless disclosure is with the client's
18 consent.

19 C. The performance of a licensee's duties does not
20 in and of itself create an agency relationship.

21 D. Nothing in this section prohibits a consumer from
22 entering into an agency agreement with a real estate licensee."